

**NATIONAL INDOOR FOOTBALL LEAGUE,  
L.L.C.**

**Timothy C. Leventry, Esquire  
Forrest B. Fordham, III, Esquire  
Ryan Sedlak, Esquire**

**2:02-cv-548**

**v.**

**R.P.C. EMPLOYER SERVICES, INC.  
and DAN J. D'ALIO**

**Michael J. Seymour, Esquire  
Bernard C. Caputo, Esquire**

**JURY SELECTION PROCEDURE**

GOOD MORNING LADIES AND GENTLEMEN, I WANT TO WELCOME YOU TO THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA. I'M JUDGE TERRENCE F. McVERRY AND I'LL BE PRESIDING OVER JURY SELECTION FOR A CIVIL TRIAL IN WHICH YOU HAVE BEEN SUMMONED TO PARTICIPATE.

LADIES AND GENTLEMEN, BUT FOR SERVICE IN OUR U.S. MILITARY, SERVING AS A JUROR IN OUR CIVIL AND CRIMINAL JUSTICE SYSTEM IS THE HIGHEST FORM OF CIVIC DUTY AND RESPONSIBILITY WHICH ONE IS CALLED UPON TO PERFORM AS A CITIZEN IN OUR DEMOCRACY. CITIZENS SITTING IN JUDGMENT OF THE ACTIONS OF FELLOW CITIZENS. A BASIC TENANT OF OUR

CIVIL AND CRIMINAL JUSTICE SYSTEM WHICH WE BELIEVE TO BE THE FAIREST SYSTEM IN THE WORLD AND WHICH COULD NOT FUNCTION WITHOUT YOU. WE KNOW THAT IT IS A PERSONAL AND PROFESSIONAL SACRIFICE FOR YOU TO BE HERE, BUT IT IS TRULY VERY IMPORTANT AND I WILL DO EVERYTHING IN MY POWER TO MAKE THIS A MEANINGFUL EXPERIENCE FOR YOU WITH AS LITTLE INCONVENIENCE AS POSSIBLE. BELIEVE ME THIS TRIAL IS VERY IMPORTANT TO THE PARTIES INVOLVED, THE ATTORNEYS AND THIS COURT AND WE ARE MOST APPRECIATIVE OF YOUR PARTICIPATION AS CITIZEN JURORS.

IT IS THE JURY'S FUNCTION TO DECIDE THE FACTS OF THE MATTER WITHOUT BIAS OR PREJUDICE TO ANY PARTY IN THE CASE. THE LAW DOES NOT PERMIT JURORS TO BE GOVERNED BY SYMPATHY, PREJUDICE, BIAS OR PUBLIC OPINION. YOU ARE TO BE FAIR MINDED.

THEREFORE, I MUST EXCLUDE FROM THE JURY ANYONE WHO HAS SUCH STRONG FEELINGS ABOUT THE PEOPLE OR ISSUES INVOLVED IN THE CASE THAT HE OR SHE IS UNABLE TO EVALUATE THE EVIDENCE IMPARTIALLY. THE LAW ALSO PROVIDES FOR THE

ATTORNEYS FOR THE PARTIES TO PARTICIPATE IN THE JURY SELECTION PROCESS THROUGH THE EXERCISE OF PEREMPTORY CHALLENGES (EXCUSALS), WHICH MEANS THAT THEY WILL BE PERMITTED TO EXCLUDE A TOTAL OF SIX (6) OF YOU PROSPECTIVE JURORS FROM THE CASE FOR ANY REASON WHATSOEVER. IN FACT THE LAWYERS MUST EXCLUDE A CERTAIN NUMBER OF YOU TO GET TO THE REQUISITE NUMBER OF JURORS FOR A TRIAL.

THE JURY IN THIS CASE WILL CONSIST OF EIGHT MEMBERS.

TO ASSIST BOTH THE COURT AND THE LAWYERS IN THE JURY SELECTION PROCESS, I WILL CONDUCT VOIR DIRE. THAT MEANS I WILL ASK YOU CERTAIN QUESTIONS ABOUT YOUR FEELINGS AND EXPERIENCES WHICH MIGHT INFLUENCE YOUR THINKING ABOUT THIS CASE. THESE QUESTIONS ARE DESIGNED TO SUPPLY INFORMATION TO BOTH SIDES WHICH WILL ENABLE THE LAWYERS TO EXERCISE THEIR PEREMPTORY CHALLENGES MORE INTELLIGENTLY AND EFFECTIVELY. CERTAIN QUESTIONS WILL BE ASKED OF YOU HERE IN OPEN COURT AND OTHER QUESTIONS

WILL BE ASKED INDIVIDUALLY IN PRIVATE OUT OF THE HEARING OF ONE ANOTHER.

THE EXERCISE OF PEREMPTORY CHALLENGES DOES NOT CONSTITUTE ANY REFLECTION WHATSOEVER ON THE PROSPECTIVE JURORS WHO ARE EXCUSED FROM DELIBERATING ON THIS CASE. IT SHOULD NOT BE INTERPRETED AS A DECISION THAT THOSE PERSONS WHO ARE EXCUSED ARE BIASED OR PREJUDICED. IT SIMPLY MEANS THAT THE LAWYERS, BASED ON HIS OR HER TRIAL EXPERIENCE, KNOWLEDGE OF THE CASE, AND THE INFORMATION LEARNED THROUGH VOIR DIRE, HAVE DECIDED THAT SOMEONE ELSE SHOULD SIT AS A JUROR TO HEAR AND DECIDE THIS PARTICULAR CASE.

NOW THAT I HAVE EXPLAINED THE PURPOSE OF VOIR DIRE TO YOU, I'M ABOUT TO TELL YOU ABOUT THE CIVIL CASE ON WHICH WE'RE ABOUT TO HAVE A TRIAL.

THIS CASE IS TITLED "NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C v. R.P.C. EMPLOYER SERVICES, INC., AND DAN J. D'ALIO."

PLAINTIFF HAS THREE SEPARATE CLAIMS AGAINST DEFENDANTS. FIRST, PLAINTIFF ALLEGES THAT DEFENDANT

R.P.C. EMPLOYER SERVICES, INC., BREACHED THE SERVICE AGREEMENT THAT THE PARTIES HAD ENTERED INTO IN MARCH OF 2001.

NEXT, PLAINTIFF CONTENDS THAT BOTH DEFENDANTS FRAUDULENTLY MADE MISREPRESENTATIONS OR OMISSIONS TO IT WITH REGARD TO PROVIDING WORKERS' COMPENSATION INSURANCE COVERAGE FOR FOOTBALL TEAM PLAYERS THROUGH THE STATE OF OHIO, AND UPON WHICH THE PLAINTIFF RELIED.

LASTLY, PLAINTIFF ALLEGES THAT DEFENDANT DANIEL D'ALIO VIOLATED THE FEDERAL RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, COMMONLY KNOWN AS "RICO." YOU SHOULD BE ADVISED THAT ALTHOUGH THE RICO STATUTE USES THE TERMS "RACKETEER," "RACKETEERING," AND "CORRUPT ORGANIZATIONS," THIS DOES NOT MEAN THAT PLAINTIFF MUST PROVE THAT DEFENDANTS ARE "RACKETEERS" OR THAT THEY ARE MEMBERS OF WHAT IS COMMONLY REFERRED TO AS "ORGANIZED CRIME."

RATHER, PLAINTIFF CLAIMS THAT DANIEL D'ALIO WILLFULLY AND KNOWINGLY PARTICIPATED IN A SCHEME TO DEFRAUD

PLAINTIFF, DID SO WITH AN INTENT TO DEFRAUD, AND USED THE U.S. MAIL OR MADE INTERSTATE TELEPHONE CALLS OR USED RADIO COMMUNICATIONS FOR THE PURPOSE OF EXECUTING THE SCHEME OR PLAN TO DEFRAUD.

DEFENDANTS DENY PLAINTIFF'S CLAIMS AND CONTEND THAT PLAINTIFF FAILED TO DO CERTAIN THINGS WITHIN THE STATE OF OHIO IN ORDER FOR IT OR THE TEAM PLAYERS TO BE ELIGIBLE OR QUALIFIED FOR OHIO WORKERS' COMPENSATION INSURANCE COVERAGE, AND THAT THESE FAILURES PREVENTED THE DEFENDANTS FROM PERFORMING THE SERVICE AGREEMENT. THEREFORE, ACCORDING TO DEFENDANTS, THEY TERMINATED THE SERVICE AGREEMENT BECAUSE THE PLAINTIFF COMMITTED A MATERIAL BREACH OF THE SERVICE AGREEMENT.

A REPRESENTATIVE OF THE NATIONAL INDOOR FOOTBALL LEAGUE IS HERE IN THE COURTROOM THIS MORNING SEATED AT THE TABLE CLOSEST TO THE JURY BOX WITH ITS ATTORNEYS, TIMOTHY C. LEVENTRY, RYAN SEDLACK, AND FORREST B. FORDHAM, III. THE ATTORNEYS FOR DEFENDANTS, R.P.C. EMPLOYER SERVICES, INC. AND DAN J. D'ALIO ARE BERNARD C.

CAPUTO AND MICHAEL J. SEYMOUR, WHO ARE SEATED AT THE  
TABLE TO MY RIGHT. WITH THEM AT COUNSEL TABLE ARE

.

OUR COURT REPORTER IS PATRICIA SHERMAN, WHO WILL  
TAKE DOWN EVERYTHING THAT IS SAID.

MY COURTROOM DEPUTY CLERK IS MS. KELLY LaMANTIA.  
SHE IS AN OFFICER OF THE COURT AND WILL ASSIST IN  
SELECTION THE JURY.

[MS. LaMANTIA, PLEASE ADMINISTER THE OATH TO THE PANEL OF  
JURORS.]

WE WILL START THE SELECTION PROCESS BY ASKING EACH  
OF YOU TO STAND AND ANSWER THE QUESTIONS ON THE FORM  
DATA SHEET PROVIDED TO YOU THIS MORNING. PLEASE TAKE  
YOUR TIME AND SPEAK ALOUD SO THAT ALL OF YOUR ANSWERS  
WILL BE HEARD AND UNDERSTOOD. IF YOU DO NOT UNDERSTAND  
ANY OF THESE QUESTIONS, PLEASE FEEL FREE TO ASK ME FOR  
AN EXPLANATION. WE'LL START WITH THE PERSON IN SEAT  
NUMBER ONE.

CIVIL JURY PERSONAL DATA INFO

- A. I AM JUROR NUMBER \_\_\_\_\_.
- B. I AM (AGE) \_\_\_\_\_ YEARS OLD.
- C. I LIVE IN (CITY OF RESIDENCE) \_\_\_\_\_.
- D. I HAVE LIVED THERE APPROXIMATELY \_\_\_\_\_ YEARS.
- E. I OWN/RENT MY HOME.
- F. MY EDUCATIONAL BACKGROUND IS \_\_\_\_\_.  
(E.G. HIGH SCHOOL? COLLEGE? OTHER?)  
IF COLLEGE, MY MAJOR AREA OF STUDY WAS \_\_\_\_\_.
- G. MY EMPLOYER IS \_\_\_\_\_.  
MY JOB TITLE IS \_\_\_\_\_.  
(IF RETIRED, WHO WAS YOUR EMPLOYER AND WHAT WAS YOUR  
JOB TITLE)\_\_\_\_\_
- H. I AM/AM NOT MARRIED. IF MARRIED,  
(a) MY SPOUSE'S EMPLOYER IS \_\_\_\_\_.  
(b) MY SPOUSE'S JOB TITLE IS \_\_\_\_\_.  
(IF RETIRED, WHO WAS HIS/HER EMPLOYER AND WHAT WAS  
HIS/HER JOB TITLE?)
- I. DO YOU HAVE CHILDREN? IF YES, PLEASE TELL US THEIR AGES AND  
EMPLOYMENT, IF ANY.
- J. DO YOU HAVE A FAMILY DOCTOR? IF SO, PLEASE TELL US THE NAME  
OF YOUR FAMILY DOCTOR.
- K. I DO/DO NOT HAVE AN ATTORNEY. IF SO, MY ATTORNEY'S NAME IS  
\_\_\_\_\_ AND I HAVE RETAINED HIM/HER BECAUSE  
\_\_\_\_\_.



QUESTIONS DIRECTED TO THE PANEL EN BANC

TO THE ENTIRE PANEL:

NOW I WILL POSE A NUMBER OF QUESTIONS TO YOU AS A GROUP. LISTEN CLOSELY. IF YOUR ANSWER TO THE QUESTION IS NO, REMAIN SEATED AND SAY NOTHING. IF YOUR ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES," PLEASE STAND AND STATE YOUR JUROR NUMBER ONLY. AT THIS TIME, DO NOT PROVIDE ANY FURTHER INFORMATION ABOUT YOUR "YES" ANSWER.

1. NOW, RECALLING THE SUMMARY OF THE FACTS OF THIS CASE WHICH I READ TO YOU, DO ANY OF YOU KNOW ANYTHING ABOUT THIS CASE OR HAVE YOU READ, SEEN OR HEARD ANYTHING ABOUT IT?  
  
IF SO, PLEASE STAND AND STATE YOUR JUROR NUMBER.

FOLLOW UP IN CHAMBERS

2. AS I'VE TOLD YOU, THE PLAINTIFF IN THIS CASE IS THE NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C. ARE YOU OR ANY MEMBERS OF YOUR IMMEDIATE FAMILY, CURRENT OR FORMER EMPLOYEES OF THE NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C?

DO YOU OR MEMBERS OF YOUR IMMEDIATE FAMILY OWN STOCK IN THE NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C.?

HAVE YOU EVER HAD A BUSINESS RELATIONSHIP WITH THE NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C?

FOLLOW-UP IN CHAMBERS

3. THE PLAINTIFF IS REPRESENTED BY ATTORNEYS TIMOTHY C. LEVENTRY AND RYAN SEDLAK OF THE LAW FIRM OF LEVENTRY, HASCHAK AND RODKEY, L.L.C. AND

FORREST B. FORDHAM, III, A SOLE PRACTITIONER, IN  
JOHNSTOWN, PA.

DO ANY OF YOU KNOW ATTORNEYS LEVENTRY, SEDLAK,  
OR FORDHAM?

HAS MR. FORDHAM, OR MR. LEVENTRY OR MR. SEDLAK  
OR ANY MEMBER OF THEIR FIRM EVER REPRESENTED  
YOU OR A MEMBER OF YOUR IMMEDIATE FAMILY, IF YOU  
KNOW?

IMMEDIATE FAMILY IS DEFINED AS A HUSBAND, WIFE,  
MOTHER, FATHER, GRANDPARENT, BROTHER, SISTER,  
CHILDREN AND ANYONE LIVING IN YOUR HOME.

FOLLOW-UP IN CHAMBERS

4. THE DEFENDANTS ARE R.P.C. EMPLOYER SERVICES,  
INC. AND DAN J. D'ALIO. DO ANY OF YOU KNOW OR

KNOW OF MR. D'ALIO? ARE YOU, OR ARE ANY MEMBERS OF YOUR IMMEDIATE FAMILY, CURRENT OR FORMER EMPLOYEES OF R.P.C. EMPLOYER SERVICES, INC.?

DO YOU OR ANY MEMBERS OF YOUR IMMEDIATE FAMILY OWN STOCK IN R.P.C. EMPLOYER SERVICES, INC.?

HAVE YOU EVER HAD A BUSINESS RELATIONSHIP WITH R.P.C. EMPLOYER SERVICES, INC.?

FOLLOW-UP IN CHAMBERS

5. R.P.C. EMPLOYER SERVICES, INC. AND DAN J. D'ALIO ARE REPRESENTED BY ATTORNEYS BERNARD C. CAPUTO, A SOLE PRACTITIONER, AND MICHAEL J. SEYMOUR, OF THE LAW FIRM FECZO AND SEYMOUR, IN PITTSBURGH, PA.

DO ANY OF YOU KNOW ATTORNEYS CAPUTO OR SEYMOUR?

HAS MR. CAPUTO OR MR. SEYMOUR OR ANY MEMBER OF HIS FIRM EVER REPRESENTED YOU OR A MEMBER OF YOUR IMMEDIATE FAMILY, IF YOU KNOW?

FOLLOW-UP IN CHAMBERS

6. YOU SHOULD KNOW THAT THIS CASE IS ESTIMATED TO LAST APPROXIMATELY FOUR (4) TO SIX (6) TRIAL DAYS; TUESDAY THROUGH FRIDAY OF THIS WEEK, AND INTO THE FOLLOWING WEEK AS NECESSARY.

ALSO OUR JURY DELIBERATION ROOM IS UP ONE FLIGHT OF STAIRS FROM THIS COURTROOM WHICH MUST BE TRAVERSED SEVERAL TIMES EACH DAY.

NOW KNOWING THE FACTS OF THE CASE, THE  
POTENTIAL DURATION OF THE TRIAL AND THE  
INVOLVEMENT OF STAIRS IS THERE ANY REASON,  
PERSONAL, MEDICAL, OR OTHERWISE, WHY YOU COULD  
NOT SERVE AS A JUROR FOR THE DURATION OF THIS  
TRIAL?

FOLLOW-UP IN CHAMBERS

7. THE FOLLOWING WITNESSES WILL LIKELY BE CALLED TO  
TESTIFY IN THIS TRIAL. IF YOU KNOW ANY OF THESE  
PERSONS, AS I STATE THEIR NAMES PLEASE INTERRUPT  
ME, STAND UP AND GIVE YOUR JUROR NUMBER.

Carolyn Shiver  
Martin Herf  
Rex Blateri  
Daniel J. D'Alio  
Jerelyn Pasternack  
Tom Sico, Esquire

Richard P. Caputo  
Brian K. Brittain, Esquire  
Jacob Barsotini  
Maureen Ciarolla  
Mark Marchino

A possible representative from the  
following teams:

Billings Outlaws  
Johnstown J Dogs  
Bayou Beast  
Alexandria Rangers  
Lake Charles Land Sharks  
Mississippi Firedogs  
Diesel Football Business Office  
Casper Professional Football, L.L.C.

Mobile Seagalls  
Rapid City Reddogs  
Sioux City Bandits  
Sioux Falls Storm  
Southern Oregon Heat

FOLLOW-UP IN CHAMBERS

8. HAVE YOU EVER SERVED AS A JUROR IN A CRIMINAL OR  
CIVIL CASE OR AS A MEMBER OF A GRAND JURY IN  
EITHER THE FEDERAL OR STATE COURTS?

FOLLOW-UP IN CHAMBERS

9. HAVE YOU OR ANY MEMBER OF YOUR IMMEDIATE FAMILY EVER BEEN INVOLVED IN A LAWSUIT AS A PARTY, A WITNESS OR IN ANY OTHER CAPACITY?

FOLLOW-UP IN CHAMBERS

10. DO YOU HAVE ANY STRONG PERSONAL FEELINGS, EITHER POSITIVE OR NEGATIVE, REGARDING ANY PERSON WHO FILES A LAWSUIT WHICH MIGHT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE.

FOLLOW-UP IN CHAMBERS



11. NATIONAL INDOOR FOOTBALL LEAGUE, L.L.C. AND R.P.C. EMPLOYER SERVICES, INC., ARE CORPORATIONS AND MR. D'ALIO, OF COURSE, IS AN INDIVIDUAL. DO YOU HAVE ANY STRONG PERSONAL FEELINGS FOR OR AGAINST COMPANIES/ EMPLOYERS THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE AND TREAT THE DEFENDANT CORPORATIONS AND MR. D'ALIO FAIRLY AND AS EQUALS?

FOLLOW-UP IN CHAMBERS

12. HAVE YOU OR ANY MEMBER OF YOUR IMMEDIATE FAMILY EVER BEEN INVOLVED IN A DISPUTE OVER A CONTRACT?

FOLLOW-UP IN CHAMBERS

13. HAVE YOU OR ANY MEMBER OF YOUR IMMEDIATE FAMILY HAD ANY EDUCATION, TRAINING, OR WORK EXPERIENCE IN THE FIELD OF WORKERS' COMPENSATION INSURANCE CLAIMS?

FOLLOW-UP IN CHAMBERS

14. NOW HAVING HEARD ALL THE PRELIMINARY INFORMATION REGARDING THIS CASE, IS THERE ANY REASON OF WHICH YOU'RE AWARE THAT YOU COULD NOT OR WOULD NOT FOLLOW THE LAW AS I INSTRUCT YOU REGARDING LIABILITY AND DAMAGES AND SERVE AS A FAIR AND IMPARTIAL JUROR IN THIS CASE, BASING YOUR VERDICT ON THE FACTS AS YOU DETERMINE AND THE LAW AS I INSTRUCT YOU?

FOLLOW-UP IN CHAMBERS

At the conclusion of the individual voir dire, the Courtroom Deputy will announce a short break to allow counsel to consider the jurors' responses. A total of six peremptory challenges/strikes will be permitted with the plaintiff having three strikes and the defendant having three strikes. The parties will each make alternating strikes with the plaintiff proceeding first and continuing until all challenges are exhausted. Each challenge is to be labeled (i.e. "P-1" - plaintiff's first challenge; "D-2" - defendants' second challenge). Those jurors stricken from the panel will be removed from the jury box. These jurors remaining will comprise the jury selected for this trial.

When seating a jury panel, the first eight (8) names from the panel of 16 seated is the PRIMARY panel. This means that if any of the first eight (8) jurors are selected for this jury they are to remain in their seats, with the remaining jurors to fill in the rest of the panel. If, for example, jurors 1, 3, & 5 are selected, as are jurors 10, 12, 14, & 15, the panel will be seated in the following manner:

Juror #1 remains Juror #1

Juror #10 becomes Juror #2

Juror #3 remains Juror #3

Juror #12 becomes Juror #4

Juror #5 remains Juror #5

Juror #14 becomes Juror #6

Juror #15 becomes Juror #7

Once the jury is seated in the jury box and the Judge is on the bench, but prior to the beginning of testimony, the Courtroom Deputy will administer the following oath to the jury :

“You and each of you do solemnly swear or affirm  
that you will well and truly try the matters in issue  
now on trial, and render a true verdict, according to  
the law and the evidence, so help you God.”

After the entire case has been presented to the jury and they prepare to deliberate on the issues presented, the Courtroom Deputy will be sworn in as the Bailiff in accordance with the following oath:

“You do solemnly swear to keep this jury together in some private and convenient place, and not to permit any person to speak to, or communicate with them, nor to do so yourself unless by order of the court or to ask whether they have agreed on a verdict, and to return them into court when they have so agreed, or when ordered by the Court, so help you God.”

BY THE COURT:

s/ Terrence F. McVerry  
United States District Court Judge

cc: Forrest B. Fordham, III, Esquire  
Email: ffordhamlaw@aol.com

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Leventry & Haschak  
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Michael J. Seymour, Esquire  
Feczko & Seymour  
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